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OFFICE OF PETITIONS

In re Application of :
Sameer Marathe : DECISION ON
Application No. 10/670,857 : PETITION
Filed: September 25, 2003 :
Attorney Docket No. 03-106 :

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT OF PATENT APPLICATION," filed August 23, 2006.

The petition under §1.181 is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper reply to the final Office action mailed October 27, 2005. This Office action set a three-month shortened statutory period for reply, with extensions of time obtainable under § 1.136(a). A Notice of Abandonment was mailed on August 1, 2006.

The petition was filed promptly thereafter. Therein, petitioner asserts that after having timely filed a Notice of Appeal in response to the Office action mailed October 27, 2005, and having been mailed a Notice of Panel Decision from Pre-Appeal Brief Review on February 28, 2006, applicant had until August 28, 2006 to file an Appeal Brief¹. Petitioner states their intention to file such an Appeal Brief with the necessary extension of time within the fifth month. In view thereof,

¹ Citing *Pre-appeal Brief Conference Pilot Program*, 1296 OG 67 (July 12, 2005).

petitioner asserts that the holding of abandonment mailed August 1, 2006, is premature.

Applicant's arguments have been considered and found persuasive. The Notice of Appeal was timely filed on January 10, 2006. Further, as stated by applicant and as indicated in the Notice of Panel Decision from Pre-Appeal Brief Review mailed February 28, 2006, the Notice set a one-month period for reply, with extensions of time obtainable under §1.136(a)².

Accordingly, withdrawal of the holding of abandonment is warranted.

It is further noted that applicant's Appeal Brief (and extension of time) was timely filed on August 28, 2006.

In view thereof, the Notice of Abandonment mailed August 1, 2006, is VACATED, and the holding of abandonment is hereby WITHDRAWN.

No petition fee is required and none has been charged.

The Technology Center AU 3683 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for forwarding to the examiner for consideration of the Appeal Brief filed August 28, 2006.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

² The OG Notice provided that:

the time period for filing an appeal brief will be reset to be one month from mailing of the decision on the request, or the balance of the two-month time period running from the receipt of the notice of appeal, whichever is greater. Further, the time period for filing of the appeal brief is extendible under 37 CFR 1.136 based upon the mail date of the decision on the request or the receipt date of the notice of appeal, as applicable.